

## **EXHIBIT 4**

1  
2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF MINNESOTA

4 -----X  
5 FAIR ISAAC CORPORATION,

6 PLAINTIFF,

7 -against-

8 Case No.:  
9 16-cv-1054

10 FEDERAL INSURANCE COMPANY and  
11 ACE AMERICAN INSURANCE COMPANY,

12 DEFENDANTS.

13 DATE: February 26, 2019

14 TIME: 10:06 A.M.

15  
16 DEPOSITION of a Non-Party  
17 Witness, LAWRENCE WACHS, taken by the  
18 respective parties, pursuant to a  
19 Subpoena and to the Federal Rules of  
20 Civil Procedure, held at the offices of  
21 Merchant & Gould, P.C., 767 3rd Avenue,  
22 23rd Floor, New York, New York 10017,  
23 before Jennifer Schwartz, a Notary  
24 Public of the State of New York.  
25

1  
2 Unless you have something there, I  
3 can't remember that.  
4 Q. Did you review documents from  
5 2008 in preparation for the deposition  
6 today, if you recall?  
7 **A. I believe so. If they were part**  
8 **of discovery, I saw them.**  
9 Q. Do you have a recollection of  
10 Mike Sawyer or Russ Schreiber  
11 approaching you to discuss the Chubb  
12 license in late 2008?  
13 **A. Not specifically, no.**  
14 Q. I'm showing you what's been  
15 marked as deposition Exhibit 73. This  
16 is an appointment from Mike Sawyer to  
17 Ian Brody, Richard Hill, and Russ  
18 Schreiber, correct?  
19 **A. That's correct.**  
20 Q. Do you know who Ian Brody and  
21 Richard Hill are?  
22 **A. No, I do not.**  
23 Q. And in the note to the  
24 appointment, it says, "All please join  
25 this call to discuss the Chubb license  
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1  
2 agreement and plan -- and the plan for  
3 Chubb Europe. Attached are the three  
4 SLSA contracts and the latest Chubb  
5 annual report," correct?  
6 **A. Correct.**  
7 Q. Was it your understanding at  
8 this point that Chubb had approached  
9 FICO about using Blaze in Europe?  
10 MR. HINDERAKER: Objection,  
11 lack of foundation.  
12 **A. I was not an invitee at this**  
13 **meeting and I can't say that I remember**  
14 **the specifics of the meeting.**  
15 Q. Okay. And I'm just using this  
16 date to ask you whether -- as someone  
17 who was involved with the Chubb  
18 account, whether you have a  
19 recollection of Chubb discussing...  
20 **A. No, I do not.**  
21 Q. You know, having access to Blaze  
22 in Europe pursuant to enterprise  
23 license agreement?  
24 **A. No, I do not. No recollection.**  
25 Q. Do you recall that around this  
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1  
2 time you were asked to look into the  
3 Chubb license agreement in connection  
4 with Chubb's request to have access to  
5 Blaze in Europe?  
6 **A. Conceivably, but I don't**  
7 **remember the specifics of that**  
8 **conversation. I believe there's an**  
9 **e-mail to that effect though.**  
10 Q. Okay. So do you recall that you  
11 actually concluded that the ELA that  
12 was negotiated with Chubb was a global  
13 ELA?  
14 **A. From the wording here, I cannot**  
15 **conclude -- make that conclusion.**  
16 Q. So I've handed you -- before you  
17 go into the e-mail, I was asking the  
18 question whether you recalled  
19 concluding that it was a global ELA. I  
20 take it you don't have a recollection  
21 of that?  
22 **A. I do not have a recollection of**  
23 **that.**  
24 Q. So I've handed you what's been  
25 marked as Exhibit 116. Is this one of  
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1  
2 the documents you reviewed to prepare  
3 for your deposition?  
4 **A. Yes.**  
5 Q. This is an e-mail from you to  
6 Russ Schreiber dated November 26th,  
7 2008, correct?  
8 **A. That's right.**  
9 Q. So this is about a  
10 week-and-a-half after -- or two -- a  
11 little less than two weeks after the  
12 appointment planner that we looked at  
13 which was marked Exhibit 73, correct?  
14 **A. Right.**  
15 Q. I'll give you a chance to review  
16 the e-mail, let me know when you've  
17 done that.  
18 **A. Yeah, I reviewed the document.**  
19 Q. Having reviewed the document, do  
20 you recall what led you to writing this  
21 e-mail?  
22 **A. It appears that it was a request**  
23 **by Russ Schreiber for my views on the**  
24 **status of the ELA and whether it did**  
25 **include a global provision or not.**  
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1  
2 Q. And do you recall actually  
3 having a conversation with Russ  
4 Schreiber on that topic?  
5 **A. No, I don't have a recollection**  
6 **of that.**  
7 Q. You state that in reviewing your  
8 notes and some archived e-mails, "it's  
9 apparent to me that the corporate ELA  
10 that was negotiated with Phil Folz and  
11 June Drewry intended to include the  
12 global license, correct?  
13 **A. That is what I stated.**  
14 Q. So you concluded after reviewing  
15 archived e-mails and your notes that  
16 the ELA was a global license?  
17 **A. That, I don't agree with**  
18 **necessarily. It says that it's**  
19 **apparent that it intended to include**  
20 **the global license but I can't tell you**  
21 **specifically that it did.**  
22 Q. Okay. What is the distinction  
23 between what you're saying and what I  
24 said?  
25 **A. Well, the way I worded it, it's**  
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1  
2 apparent that it intended to include a  
3 global license. The question is in the  
4 final what was actually paid by Chubb  
5 would indicate that there's a  
6 difference of about \$100,000 and I  
7 don't see the wording, for example,  
8 change from a definition of territory,  
9 so there's some evidence that it did  
10 not include -- that it was never  
11 finally accepted as global but I don't  
12 have the e-mail or any thread from Phil  
13 -- from Mark Laden to indicate what was  
14 finally agreed on at that private  
15 meeting that he attended, so I can't  
16 draw that conclusion. It's apparent  
17 that they wanted global but I don't  
18 know if it ever came to fruition.  
19 Q. So you just don't know -- but  
20 you believe that it was intended to  
21 include --  
22 **A. That's correct.**  
23 Q. -- the ELA was intended to  
24 include the global license?  
25 **A. That is what I said.**  
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1  
2 MR. HINDERAKER: We'll rely  
3 on the testimony on the record.  
4 Q. And then you say, "In my  
5 recollection, they --" meaning Chubb  
6 -- "were adamant about keeping global  
7 on the table," correct?  
8 **A. That's right.**  
9 Q. But they did take COBOL's smart  
10 forms off the table to wait for  
11 projects requiring that functionality,  
12 correct?  
13 **A. That's what I said, yes.**  
14 Q. Okay. Now, did you -- do you  
15 recall talking with Russ Schreiber  
16 after you sent this e-mail?  
17 **A. No, I do not.**  
18 Q. Did you recall talking with  
19 anyone else at FICO relating to your  
20 conclusion that's set forth in the  
21 e-mail marked as 116?  
22 **A. No, I do not.**  
23 Q. Do you know whether, in fact,  
24 after November of 2008 FICO assisted  
25 Chubb in implementing the Blaze Advisor  
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1  
2 software in Europe?  
3 MR. HINDERAKER: Objection,  
4 lack of foundation.  
5 **A. I don't believe that that was**  
6 **the way I read the e-mail from the**  
7 **invitation of Mike Sawyer when he**  
8 **states that to -- license agreement and**  
9 **a plan for Chubb Europe, he's talking**  
10 **about a sales opportunity.**  
11 Q. So you don't know whether FICO  
12 interpreted the enterprise license  
13 agreement going forward as including  
14 global access or not, you just don't  
15 know?  
16 **A. I don't know.**  
17 Q. What notes are you referring to  
18 in your e-mail marked as 116?  
19 **A. It would be the notes that --**  
20 **the e-mails that you produced here**  
21 **clearly, notes would have been perhaps**  
22 **notebooks of -- as I attended meetings,**  
23 **I may have taken notes at the meeting**  
24 **but --**  
25 Q. So handwritten notes that you  
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1  
2 may have?  
3 **A. Handwritten notes, yes.**  
4 Q. Okay. And do you know where  
5 those handwritten notes are today?  
6 **A. Thrown away years ago.**  
7 Q. Was that something that you took  
8 with you when you left FICO?  
9 **A. The notebooks, yes.**  
10 Q. And do you know for a fact that  
11 you don't have those anymore?  
12 **A. Yeah. We had a super storm,**  
13 **Sandy, and most of those papers were in**  
14 **the basement and no longer available.**  
15 Q. Do you think that Mark Laden  
16 after having the meeting in December of  
17 2008 with Chubb would have sent a  
18 summary e-mail to the team that was  
19 working on the deal describing what  
20 took place?  
21 MR. HINDERAKER: Objection,  
22 asks for speculation.  
23 **A. I have no insight into that at**  
24 **all.**  
25 Q. Do you recall any other

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1  
2 involvement that you had with Chubb  
3 after writing this November 26th, 2008,  
4 e-mail?  
5 **A. Not at all.**  
6 Q. We talked about the fact that  
7 you left either in 2008 or in 2009,  
8 having gone through the e-mails we've  
9 looked at today, do you have any better  
10 recollection of when you think you left  
11 FICO?  
12 **A. It was no later than the first**  
13 **month or two of 2009.**  
14 Q. And you don't recall having any  
15 other dealings with Chubb or questions  
16 about the license agreement after this  
17 e-mail marked as 116?  
18 **A. No, I do not. Mike Sawyer was**  
19 **then the client partner, handled most**  
20 **of the interaction with Chubb.**  
21 Q. Do you -- I think this is  
22 encompassed in what I've asked but to  
23 make it clear, do you recall if Russ  
24 Schreiber responded by e-mail to this  
25 e-mail which is marked as 116?

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1  
2 **A. I have -- I just don't know. I**  
3 **don't remember.**  
4 Q. There is an e-mail in the  
5 record, I'm not even going to mark it,  
6 that's dated June 1, 2009, that's to  
7 you, I don't see a response, I'm  
8 assuming that was just sent to your --  
9 **A. Yep.**  
10 Q. Based on your testimony, it was  
11 sent to your e-mail account after you  
12 had left?  
13 **A. I'm sure it was.**  
14 (Whereupon, e-mail was  
15 marked as Defendants' Exhibit 337  
16 for identification as of this  
17 date by the Reporter.)  
18 Q. I'm showing you what's been  
19 marked as Exhibit 337. I am showing  
20 this to you to ask you to explain what  
21 it is, there's no date. I have a guess  
22 but I just -- I don't know, so after  
23 you've had a chance to take a look at  
24 it --  
25 **A. Sure.**

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1  
2 Q. -- let me know.  
3 **A. This is -- I guess, typical in**  
4 **software installations, this is the**  
5 **first communication that would flow**  
6 **from the software provider, Fair Isaac,**  
7 **FICO, to the client and it tells the**  
8 **client what his software installation**  
9 **procedure is and what process he has to**  
10 **follow in order to install the software**  
11 **on the client's service.**  
12 Q. So this would actually -- okay,  
13 so the software is not being sent via  
14 this e-mail, it's saying you can go get  
15 the software at a download site?  
16 **A. It's either downloaded or it's**  
17 **provided by a media -- by CD at the**  
18 **time. What's misleading here is that**  
19 **Jim Black did not send this --**  
20 Q. Right.  
21 **A. -- it's to Jim Black from the**  
22 **delivery team at FICO to Mr. Black.**  
23 Q. Copied to you?  
24 **A. And copied to me, yes.**  
25 Q. So the first page of -- what's

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